

## **REMARKS/ARGUMENTS**

### **Remarks**

This application is a continuation-in-part of 09/675,073. After the May 2, 2003 Office Action indicated that certain claims were allowable, this application was filed. Applicant is now addressing the issues raised in the parent application with respect to the still-pending claims.

Claims 3-4, 6-11, 14, 43-44, and 46-58 are pending. Claims 1-2, 5, 12-13, 15-18, and 45 have been canceled. Claims 19-42 have been withdrawn as drawn to a non-elected invention. Claims 12, 13, 15 and 16 are canceled because they were allowed as independent claims in the previous application. Claims 43, 47, and 49-55 are amended. Erroneously numbered claims 1-7 (which were originally filed with this continuation in part) have been renumbered as claims 49-55 and amended. See MPEP 608.01(j). Claims 56-58 are new.

#### **I. Claim Objections**

Claims 43 and 47 have been amended in response to the Examiner's objection in the May 2, 2003 office action. As a result, the phrase "each block" has been replaced with "each of said blocks". Applicant has amended claims 49 and 55 in a similar manner.

#### **II. Claim Rejections**

The Examiner, in the parent application, indicated four claims (claims 12, 13, 15 and 16) were directed toward allowable subject matter and relied on three new patents (never cited before) in order to reject the remaining claims. Applicant respectfully submits that the remaining claims are indeed patentable over the prior art newly cited in the parent application for the reasons set forth below.

**A. Section 102 Rejections**

In the Office Action dated May 2, 2003 in the parent application, the Examiner rejected claims 3, 4, 7, 10, 14, 43, 44, and 46-48 as anticipated by Mitchell. Applicant submits that Mitchell neither anticipates nor renders obvious these claims.

Mitchell discloses a block that has the same picture on each surface, including both the outer sides as well as the interior surfaces (which are used for connecting the blocks). In contrast to the present invention, the edges of the sides of Mitchell's blocks have four different colors with like colored edges of adjacent blocks establishing a preferred orientation for pictorial and indicia alignment. Mitchell's colors have nothing to do with the type of reading indicia, and are only used to confirm the orientation of the letters or pictures on the blocks. The variety of colors on the edges are thus used by Mitchell to "establish[] a preferred orientation for pictorial and indicia alignment" (Abstract). As shown in Mitchell's figures 5-9, Mitchell's blocks are intended for use in a variety of orientations with respect to each other and the indicia used on Mitchell's blocks are oriented so that, depending on how the blocks were arranged, the orientation of the indicia changes. In addition, Mitchell requires identical indicia on all sides of the blocks.

Mitchell's specification shows that it contemplates only single letters of the alphabet (whether vowels or consonants) be used in combination with pictures superimposed on the letter. See Figure 1, in which a picture of a bear is superimposed on the letter B, and col. 2, lines 16-20. Moreover, Mitchell uses the same four colors on the edges of each and every block, and discloses nothing about using the colors to correlate with the type of indicia used on any given block.

In contrast, in the present claims, all blocks of the same color have the same type of reading indicia. Moreover, each type of reading indicia has a unique color assigned thereto (as determined by the reading indicia). *E.g.*, claims 43, 47, 49 and 55.

The colors are used in the present application to signal to an instructor that the student used the right kind of indicia, not to ensure that the blocks are in a “preferred orientation” with respect to each other, as is the case with Mitchell. For example, with the present invention, if an instructor asked the student to spell “dog”, the instructor could easily and visually check whether the student misspelled the word by simply noticing that the first and third blocks were the same color (because they are consonants) and the second block was a different color (because it is a vowel). Similarly, if the student were asked to assemble the sentence “The dog ran.”, the resulting connected blocks would feature blocks of four unique colors (relating to article, noun, verb, and punctuation indicia) arranged in a particular order. The order of colors would signal to the instructor whether the student understands the proper order and usage of the different kinds of words. These features permit easy identification of various special needs, including, for example, dyslexia.

Mitchell uses color to guide the student about the proper adjacent blocks. The present invention uses color to allow the teacher to observe from a distance whether the student has made an obvious error in joining blocks.

Because Mitchell does not use such groups of at least two types of single-color blocks (in which the color corresponds to the type of reading indicia on the block), Mitchell neither teaches nor suggests the claimed invention.

Further, regarding claim 14, Mitchell's teaching is limited to using a "pictorial depiction of an object ... with a letter imprinted on the object" on the block (corresponding to the reading indicia of the present application). Thus, Mitchell does not teach or suggest using root words of any sort as reading indicia on faces of individual blocks and does not anticipate claim 14. All Mitchell teaches is assembling blocks bearing letters in their correct orientation to form an English word on the *assembled* blocks, and he does not disclose blocks with words (or even combinations of letters) thereon.

Despite rejecting claim 46 as anticipated by Mitchell, the Examiner has not specifically explained how Mitchell anticipates claim 46. For all of the reasons stated above, Mitchell does not anticipate claim 46 or render it obvious.

The rejection of the claims based on Mitchell should be withdrawn.

#### **B. Section 103 Rejections**

The Examiner has rejected claims 8 and 11 as unpatentable over Mitchell in view of Evans and claim 9 as unpatentable over Mitchell in view of Trilling because these patents allegedly show "block like elements" (Evans) or tiles (Trilling) with some of the reading indicia (e.g., suffixes and digraphs) that the Examiner admits are lacking in Mitchell.

Although Evans does describe her device as "block like", Evans' block elements have letters on a single side – not on the at least three sides described in the present claims. In addition, Evans' disclosure (like the earlier cited Magram patent, U.S. Patent No. 3,728,800) is limited to applications in which only prescribed connecting relationships of the blocks are permitted. Col. 1, lines 55-56. Thus, Evans forces a rote type of puzzle solving in which the versatility of the English language is lost and the user cannot learn by discovery.

Evans does not disclose, for example, “viewing said connected blocks to determine from said indicia or color of said connected blocks whether the chosen intelligible reading unit has been assembled” (claim 47, while claims 43 and 49 call for “viewing the color or selected indicia of said connected blocks to determine whether said indicia appear together to form an intelligible reading unit”). If only intelligible reading units could be formed by applicant’s blocks, as is true with Evans’ block elements, then the “viewing . . . to determine” step of the present claims would be pointless.

Further, it is inappropriate to use Evans to cure the deficiencies of Mitchell because there is no teaching to combine them. Mitchell teaches letter orientation based on the color of edges of blocks, while Evans teaches combining block elements based on appropriate mechanical (*i.e.*, puzzle-like) connections. The combination of Evans’ teaching (word endings and suffixes) and Mitchell does not render the instant invention obvious, because that combination simply teaches the orientation of letters rather than the formation of intelligible reading units. Neither patent discloses reliance on the student to make the determination whether a word or sentence or other intelligible reading unit has been formed (*i.e.*, “viewing said connected blocks to determine from said indicia . . .”). Evans does not address the basic deficiencies of Mitchell.

Trilling also does not cure the deficiencies of Mitchell, and their combination does not make the invention obvious for the same reasons that Evans and Mitchell fail. Trilling shows a Scrabble-like word game that uses tiles with one or more letters on a single side of the tile. Even if Trilling’s multiple letters were added to Mitchell’s blocks, the colored edges of those Mitchell blocks would merely result in teaching the proper orientation of the blocks rather than the formation of intelligible reading units.

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Applicant respectfully requests that a Notice of Allowance be issued in this case for claims 3-4, 6-11, 14, 43-44, and 46-58.

Respectfully submitted,



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